

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BENJAMIN LEVINE,

Plaintiff,

v.

Civ. Action No. 06-1394 (KSH)

STATE OF NEW JERSEY et al.,

Defendants.

ORDER

KATHARINE S. HAYDEN, U.S.D.J.

This matter comes before the Court upon Report and Recommendation by Magistrate Judge Shwartz [D.E. #46] dated October 22, 2008, which recommends striking the putative amended complaint filed by plaintiff Levine on August 29, 2008 [D.E. #43]. The Court recognizes that the order was received by Levine, via certified mail, and that there have been no objections—timely or otherwise—from him or any other party to date.

The Court agreeing fully with Magistrate Judge Shwartz's Report and Recommendation, and with good cause appearing;

IT IS on this 23th day of December, 2008,

ORDERED that the Report and Recommendation of Magistrate Judge Shwartz [D.E. #46] is **ADOPTED** in full and incorporated as the Opinion of this Court; and it is further **ORDERED** that plaintiff Levine's amended complaint [D.E. # 43] be **stricken**.

/s/ Katharine S. Hayden
HON. KATHARINE S. HAYDEN
UNITED STATES DISTRICT JUDGE

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Civil Action No. 06-1394(KSH)**REPORT AND RECOMMENDATION****Defendant****I. INTRODUCTION**

This matter comes before the Court upon its review of the docket. The docket shows that an Amended Complaint has been filed. For the reasons set forth herein, the Undersigned recommends that the United States District Judge strike the Amended Complaint.

II. PROCEDURAL HISTORY

On March 23, 2006, Benjamine Levine (“Levine”) filed a notice of removal in which he sought to remove to this Court a criminal case filed against him in the New Jersey Superior Court. Docket No. 1. By way of Order entered June 8, 2006, the Hon. Katharine S. Hayden dismissed the removal petition. Docket No. 5. On July 13, 2006, Levine filed a notice of appeal of this Order and an application to extend the deadline to file the appeal. Docket Nos. 7 and 8. On July 25, 2006, the application to extend was granted. Docket No. 11. The Court of Appeals for the Third Circuit remanded the case for resolution of a motion to reopen the period to file an appeal under Fed. R. App. P. 4(a)(6). See Docket No. 14.

On February 7, 2007, the District Court denied Levine’s Rule 4(a)(6) motion. Docket No.

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STATE OF NEW JERSEY,

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